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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 JUAN VIANEZ,

9 Plaintiff,

10 v.

11 WASHINGTON STATE PATROL,

12 Defendant.

No. C13-5971 RJB-KLS

**REPORT AND RECOMMENDATION**

**Noted for: January 17, 2014**

13 On November 18, 2013, Plaintiff filed a proposed civil rights complaint. Dkt. 1. He did  
14 not pay the Court's filing fee or submit an application for leave to proceed *in forma pauperis*  
15 (IFP). *Id.* On November 8, 2013, the Clerk advised Plaintiff that he must either submit the full  
16 \$400.00 filing fee or submit an IFP application on or before December 9, 2013. Dkt. 2. When  
17 he failed to do so by that date, the Court ordered him to pay the \$400.00 filing fee or submit an  
18 IFP application for Court approval on or before January 2, 2014. Plaintiff was further advised  
19 that his failure to do so would be deemed a failure to properly prosecute this matter and the Court  
20 will recommend dismissal of this action. Dkt. 4. On December 23, 2013, Plaintiff responded  
21 that "Mr. King has provided the courts with all the info they need. He would like the pro bono  
22 and personal investigation he has requested." Dkt. 5.

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24 **DISCUSSION**

25 A district court may permit indigent litigants to proceed in forma pauperis upon  
26 completion of a proper affidavit of indigency. See 28 U.S.C. §1915(a). However, the court has

1 broad discretion in denying an application to proceed in forma pauperis. *Weller v. Dickson*, 314  
2 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

### 3 CONCLUSION

4 Because Plaintiff has twice failed to comply with this Court's directives to pay the  
5 Court's filing fee or submit a proper application to proceed *in forma pauperis*, this case should  
6 be dismissed without prejudice.  
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8 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure  
9 ("Fed. R. Civ. P."), Plaintiff shall have fourteen (14) days from service of this Report and  
10 Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file  
11 objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474  
12 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed set  
13 this matter for consideration on **January 17, 2014**, as noted in the caption.  
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15 **DATED** this 30<sup>th</sup> day of December, 2013.

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18 Karen L. Strombom  
19 United States Magistrate Judge  
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